

YOUR DAY IN COURT

Fifth Edition

**A Manual for Teachers and Students
Visiting the Utah State Court Facilities**

Utah Law-Related Education Project

and

Administrative Office of the Courts

**Salt Lake City, Utah
January, 1999**

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PREFACE AND ACKNOWLEDGMENTS

Your Day in Court has been used in Utah elementary and secondary schools as a guide when studying the Utah court system in law-related education classes and when preparing for a court visit. This publication is designed to give background information about Utah's judicial system, to assist teachers when scheduling a court tour, and to provide specific activities for use prior to and following the court tour.

The Utah Law-Related Education Project and the Administrative Office of the Courts contributed to the updating of this edition. Contributing to the editing and typing of the manual were Kathy Dryer and Janet Hilliard.

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January, 1999

THE UTAH STATE COURT SYSTEM; AN INTRODUCTION

Welcome to the Utah State Court system. In this manual, we wish to give you an outline of what we do and how we do it.

What We Do

Courts settle conflicts when other less formal ways of settling them don't work. Most of the conflicts (about 80%) that come to state courts are of the civil variety. There are several categories of civil cases. They include:

% Cases where one person or business sues another for redress of private or civil rights (small claims, damage claims, etc.).

% Cases that sever marriages and determine child custody and support arrangements. (These "domestic" cases make up over half of the District Court civil caseload.)

About 20 percent of state court caseloads involve criminal cases (officially, conflicts between the state and those accused of breaking its criminal code). About 82 percent of criminal cases are misdemeanors, less serious criminal infractions, and the rest are felonies, more serious offenses.

Courts work to keep children from becoming habitual criminals. The Juvenile Court, which handles cases of young people under the age of 18, is concerned about protecting the public from young offenders who might be dangerous. But this court has an additional mission in dealing with the 37 percent of Utah children who have contact with the court sometime during their teen years. That mission is to do everything possible to prevent these children from settling into a pattern of law-breaking. The work restitution community service program and many other Juvenile Court programs are aimed at transforming young offenders into contributing members of the community.

Courts certify "Vital Events." Judges are called upon to approve adoptions, conduct probate, and certify name changes.

How We Do It

How is the Court System put together?

UTAH COURT SYSTEM		
Trial Courts	!	District Courts Juvenile Courts Justice Courts
Appellate Courts	!	Supreme Court Appeals Court

Currently, the Utah court system is divided into six levels. The first four levels are trial courts in which a judge or jury makes a decision based on the evidence presented. The other two levels are appeals courts to which the loser in a case may appeal for a reversal of the lower court's decision.

Each of these courts has a different jurisdiction. Jurisdiction is the nature and scope of a court's authority to hear and/or decide cases. Court jurisdictions are as follows:

! District Courts

are the highest level of trial court in Utah. District Courts have original jurisdiction in all civil and criminal matters, unless otherwise noted in the Utah Constitution or statute.

Small Claims is an important part of District Court jurisdiction. For claims under \$5000, individuals pay only a small filing fee and represent themselves in an informal court procedure. The aim of the small claims process is to help people to settle matters involving relatively small amounts in a speedy and inexpensive manner.

! Juvenile Courts

have authority to handle cases involving juveniles under the age of 18 who have committed a crime or who are beyond the control of their parents. They also handle matters involving abused, neglected, or dependent children.

! Justice Courts

are established by counties and municipalities and have authority to deal with class B and C misdemeanors, violations of ordinances, small claims, and infractions committed within their territorial jurisdiction. Justice Court jurisdictions are determined by the boundaries of local government entities such as cities or counties, which hire the judges.

! Court of Appeals

hears appeals regarding decisions made in District Court and Juvenile Court. It also hears appeals regarding the decisions of most state agencies. It does not, however, hear any cases involving charges of first degree or capital (death penalty involved) felonies.

! Supreme Court

is the highest level of appeals court in the state. It primarily hears appeals from the Appeals Court, first degree or capital felony cases and complex civil appeals from the District Court, and some cases directly from state agencies (such as the State Tax Commission). Chart #1, on page 5, shows the court levels and how many judges are serving at each court level.

Utah is divided into eight judicial districts. All levels of trial courts are represented in each of Utah's eight judicial districts, although the number of judges within those districts varies widely. Appellate level courts do not have any geographical divisions. The map on page 6 shows the boundaries of each judicial district.

Who Guides the Court System?

The policy-making body of the state court system is the thirteen member Utah Judicial Council. The Chief Justice of the Utah Supreme Court serves as chair, and the rest of the Council is comprised of representatives from each level of court. All the council members are elected by their peers. The Council receives reports from elected boards of judges for each level of court, from the Administrative Office of the Courts, and from other components of the court system. The Council also gathers information from government agencies and from representatives of the public. Using these reports and the judges' personal experiences, the Council frames the policies which guide the entire Utah Court System.

What is the Administrative Office of the Courts?

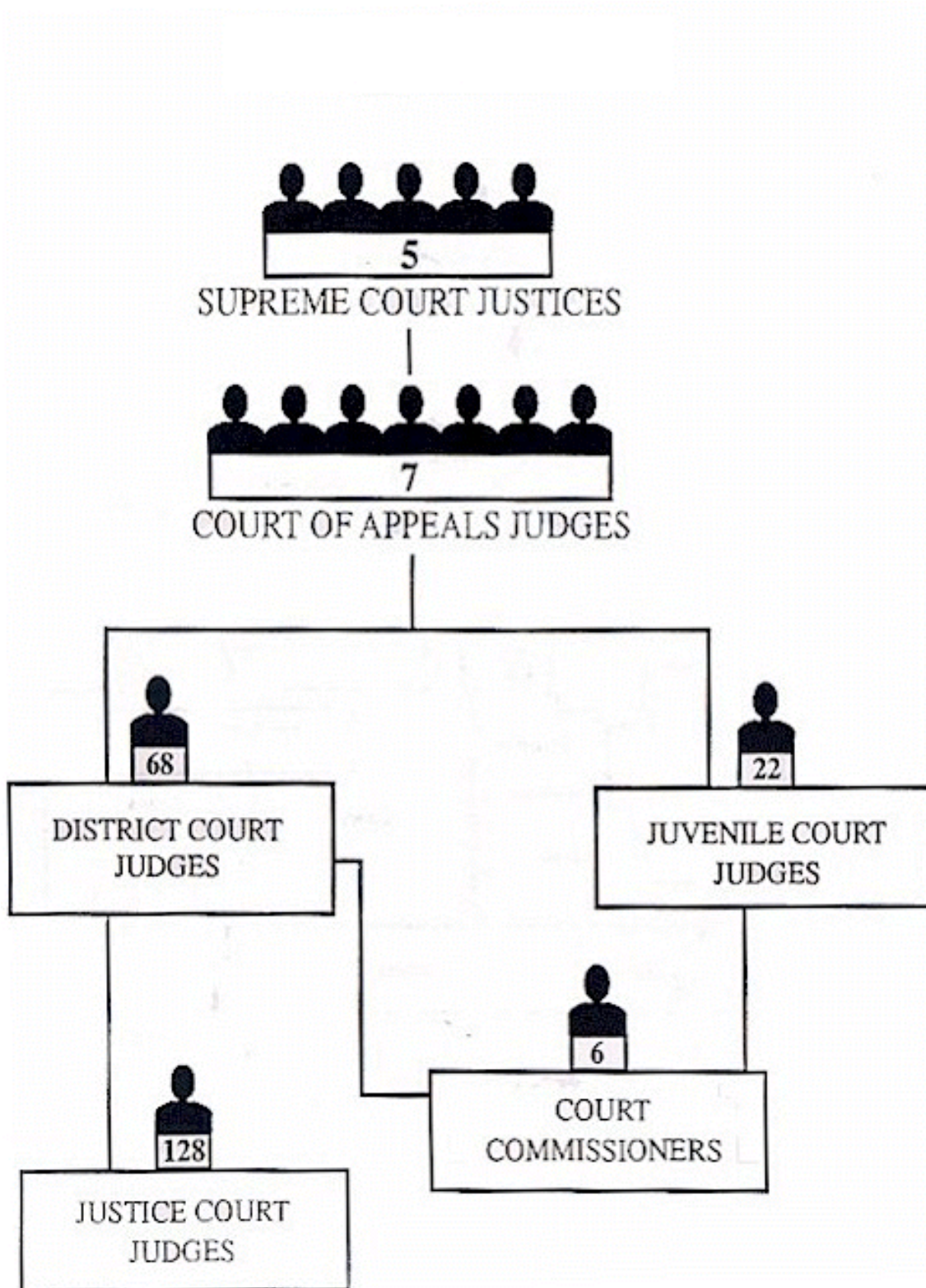
The Administrative Office provides centralized administrative services for the court system. These services include accounting, facilities planning, personnel management, judicial and staff education, information services, auditing, and many other functions. The office provides staff support for the Judicial Council and provides liaisons between the judicial branch and the other branches of state and local government.

How are Judges Chosen? Are they Elected?

When a judicial vacancy arises in a Justice Court, the local government chooses the replacement. In all other courts, however, the Governor selects a nominee from a list of three candidates. The three are chosen by a Judicial Nominating Commission which follows nominating procedures set by the Legislature and the Judicial Council. Once the Governor has selected a candidate, the Senate has 60 days to vote to approve (or not approve) the nominee. If the Senate does not approve the appointment, the process must begin again.

Three years after confirmation from the Senate, judges must stand for a nonpartisan, unopposed retention election. "Nonpartisan" means that judges do not run as Republicans, Democrats, or members of some other political party. Afterward, Supreme Court judges stand for retention elections every tenth year, other judges serving in courts of record stand every six years, and County Justice Court judges every four years. Municipal Justice Court judges do not stand for retention elections, but instead are reappointed (or not reappointed) by the government body which initially selected them. Chart #2 shows the steps in the system for choosing judges.

Chart #1
UTAH JUDICIAL SYSTEM



STATE OF UTAH JUDICIAL DISTRICTS

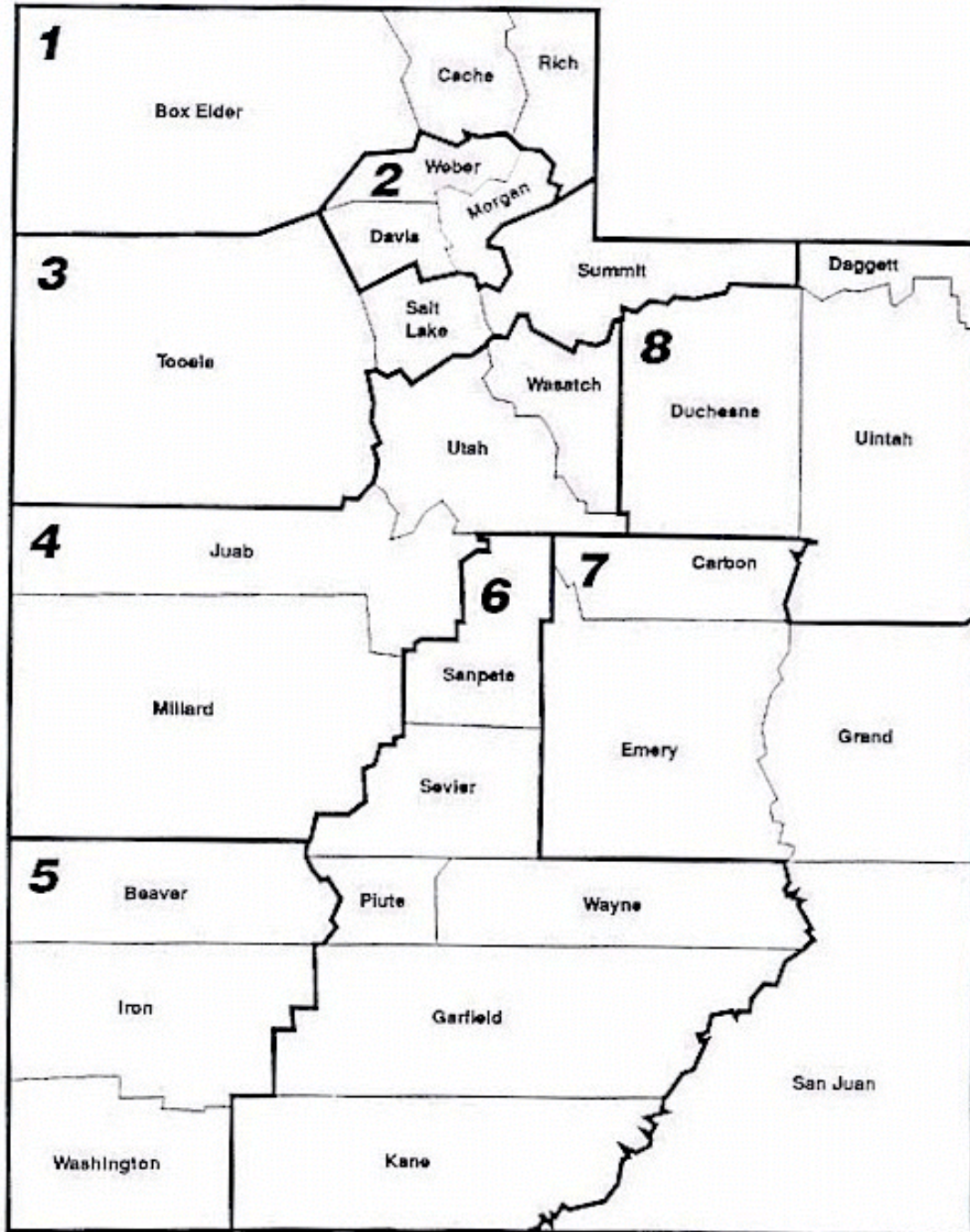
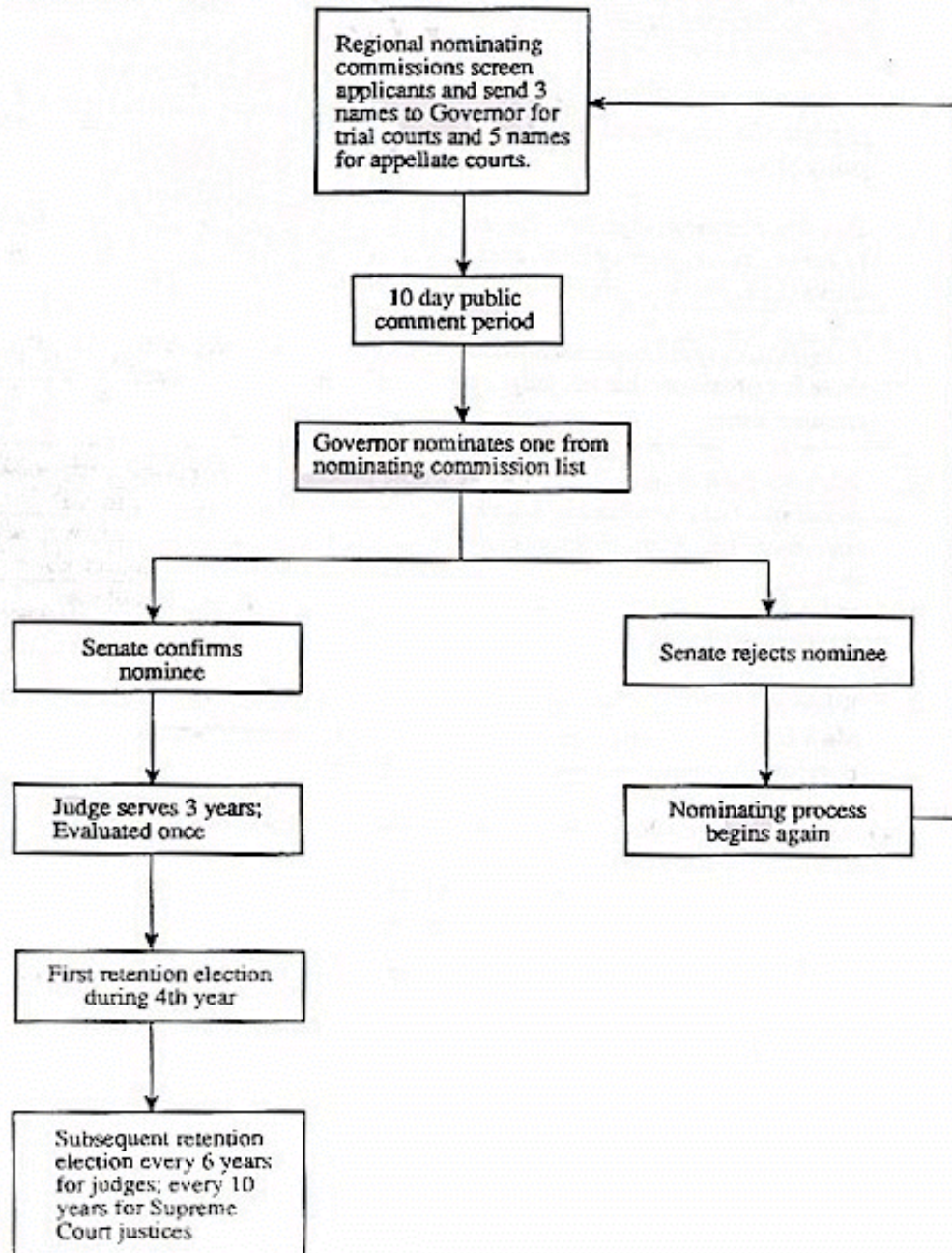


Chart #2 APPOINTMENT AND RETENTION OF UTAH JUDGES

(For courts of record only)



COMMONLY ASKED QUESTIONS

1. *Why do judges wear black robes?* The black robe has been carried over as part of tradition from the English system of law which is the basis for much of our law. It is a symbol of respect for the authority of law.
2. *What percentage of cases actually go to trial?* Only 10% of all cases filed actually go to trial. Most are settled out of court or, in criminal cases, the defendant enters a guilty plea.
3. *Do all trials have a jury?* No. Constitutional law provides a right to a jury trial. However, this right may be waived. In civil cases both parties have to agree to waive the right. In a criminal case, the defendant makes the decision.
4. *Is the decision of the jury always final?* Usually yes. However, under Utah law, there is a provision that the judge can overrule a jury under limited circumstances.
5. *What is a court of record?* It is a court whose proceedings are permanently recorded. The record can be kept by use of audio or video tape, or in the courtroom by a court reporter copying down all that is said. Justice Courts are the only Utah courts which are not courts of record. In Justice Courts, the ruling and orders of the judge are recorded, but a word for word account of the proceedings is not kept.
6. *Where does the money go that is paid in fines, bail forfeitures, and parking tickets?* Most of the money goes into the general fund the legislature uses to pay for state government. Court expenses are paid by the state.

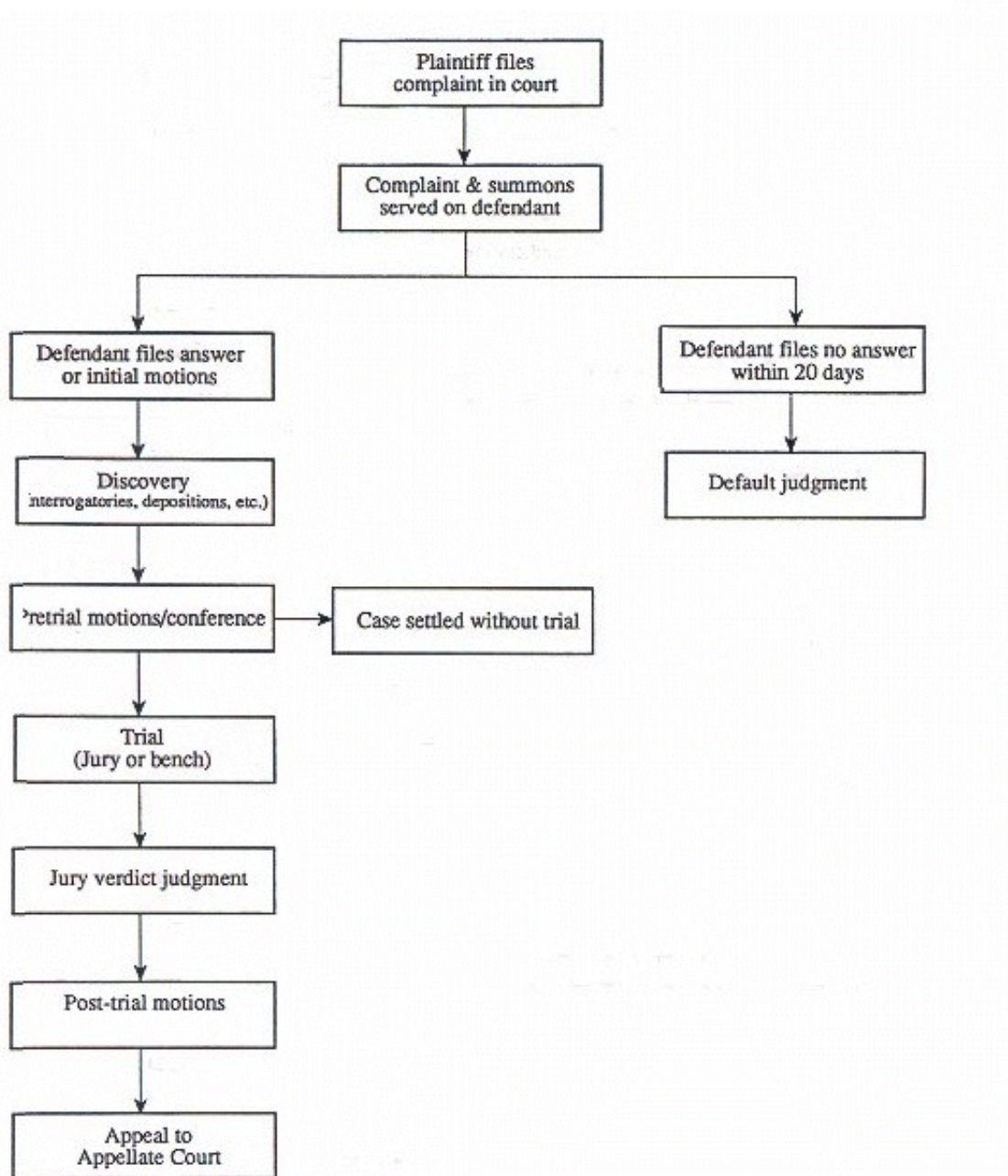
How Can I Find Out More about Utah's Court System?

For specific questions regarding the different levels of court (Juvenile Court, Traffic Court, etc.), you can contact the individual courts in your area, listed in the phone book.

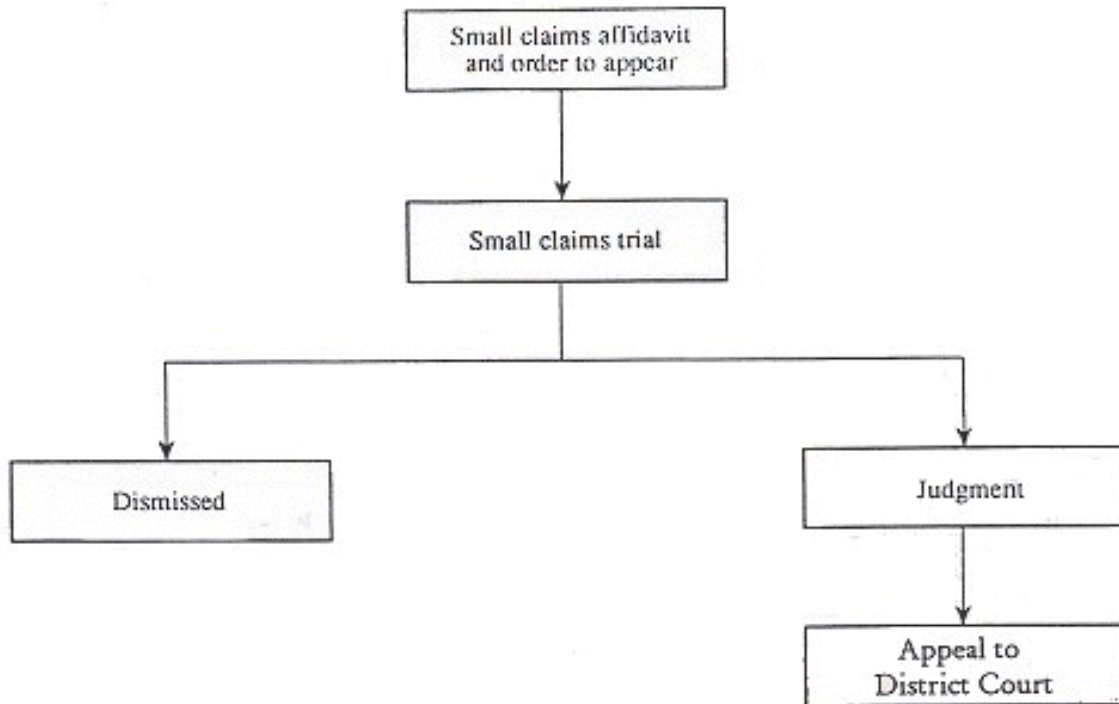
For general questions or requests for the Courts' *Annual Report* or other materials, call the Administrative Office of the Courts at 578-3800.

For information regarding the federal court system, please call 524-5160. For information regarding legal services, call the Utah State Bar at 531-9077.

CIVIL CASE PROCESS



SMALL CLAIMS PROCESS



TRIAL PROCESS

RIGHT TO TRIAL BY JURY

The Utah Constitution and the U.S. Constitution provide for a trial by jury. Approximately ten percent of all cases filed actually go to trial. Most civil cases are settled out of court or, in criminal cases, the defendant enters a negotiated guilty plea to resolve the case.

COUNSEL

A defendant has a right to counsel in criminal cases where the defendant stands a substantial chance of being incarcerated but can waive the right and proceed *pro se*. *Pro se* is self representation. The defendant may be forced to proceed *pro se* if the judge refuses to appoint counsel, and the defendant is unable to hire counsel.

THE PLAYERS IN THE COURTROOM

1. Judge

The judge presides over the trial making all the final decisions on issues of law and admissibility of evidence. In those trials where a jury is not used, the judge becomes the trier of fact and, in criminal cases, must decide guilt or innocence.

2. Bailiff

The bailiff calls the court into order and announces the judge's entry into the courtroom. S/he helps to keep order in the courtroom. Bailiffs are also responsible for security in the courtroom and in the courthouses.

3. Court Clerk

Each judge has a court clerk who administers oaths, manages the court file, numbers the exhibits, maintains the exhibits during the trial, and is responsible for all court documents.

4. Court Reporter

This is the person who is responsible for taking down verbatim all the words said in homicide preliminary hearings and during the trial or hearing in the District Court. The court reporter is responsible for making a permanent word-for-word

typewritten transcript of the proceedings and putting it into certified transcript form.

5. Defendant

In a criminal case, the defendant is the person accused of a crime. In a civil case, the defendant is the person from whom money or other recovery is sought.

6. Defense Attorney

In a criminal case, a defense attorney represents the defendant and is responsible for seeing that the defendant's rights are protected and for providing vigorous representation of the defendant, including presentation of any available defenses.

7. Prosecutor/Plaintiff

The prosecutor is the attorney for the state, county, or city and has the duty to see that the laws are upheld and justice is done on behalf of the public. In criminal cases, the prosecutor has the burden of showing the crime was committed by the defendant beyond a reasonable doubt. In a civil case, the plaintiff sets forth the allegations against the defendant and must prove the allegations by a preponderance of the evidence.

PHASES OF THE TRIAL

Depending on the type of action, a case may be tried before a judge (bench trial) or before a jury with a judge presiding. Whether the case is civil or criminal or is tried by a judge or jury, the procedure is essentially the same. The following are the steps in a trial.

1. JURY SELECTION

Jurors are selected from a random cross-section of the population of the areas served by the court. A master list is compiled from both voter registration and driver license lists. Potential jurors are sent a qualification questionnaire. Based on the information given, names are taken from the potential juror list and put on a qualified juror list. Depending on the court where they are called to serve, jurors are asked to be available for one month. During this time when they are "on call," jurors are usually asked to serve for one day or one trial.

At the beginning of the trial, the clerk calls a panel of prospective jurors. The judge, or in some cases the lawyers, take turns asking the potential jurors questions about their background and general beliefs to determine any biases or prejudices. This process is called *voir dire*. If an attorney or judge feels the juror is not qualified for the case, the juror is excused for cause. There is not a limit to the number of **challenges for cause** a party may present to the judge. Both sides are entitled to a certain number of peremptory challenges, which means they may excuse some prospective jurors without stating any reasons (unless the motives appear to be racially motivated).

The number of jurors that sit in judgment on a case depends on the type of case. Twelve jurors are required in a capital felony case; eight are required for a criminal case which carries a term of incarceration (jail or prison time) of more than one year, or for

civil cases where the damages claimed are more than \$20,000; six jurors are required for a criminal case which carries a possible sentence of from six months to a year; four are required for a criminal case which carries a term of six months or less, and four are also required in civil cases for damages less than \$20,000.

In high profile cases a judge may sequester a jury if there is danger the jury may be tainted by outside influences.

During a trial, the identity of jurors should not be reported nor should their identity be revealed through photographs or artists' drawings. Contact with jurors outside the courtroom also is prohibited.

2. OPENING STATEMENT

Attorneys for each side make statements to inform the court and jurors of the nature of the case, the evidence they will present, and the facts they expect to prove. The defense attorney may elect to wait to make an opening statement until after the prosecution has rested or may choose not to make one.

3. PROSECUTION EVIDENCE/WITNESSES

Each side makes its case based on testimony from witnesses each side calls and physical evidence such as documents, pictures, and other exhibits.

The prosecutors/plaintiffs call their witnesses for direct examination (questioning) to state what they know about the alleged crime or injury. The defense attorney may ask questions of the same witnesses (cross-examination). Then the prosecutors/plaintiffs may re-examine their witnesses (re-direct). Physical evidence such as documents, pictures, and other exhibits also is introduced.

4. DEFENSE EVIDENCE/WITNESSES

Once the prosecution has rested, the defense may call witnesses to give testimony to disprove the prosecutor's/plaintiff's case and to establish the defendant's case. The prosecutor/plaintiff may cross-examine the witnesses. Then the defense may re-examine its witnesses.

5. REBUTTAL

When the defense has presented all its witnesses, the prosecutor/plaintiff may again call witnesses to rebut new information introduced by the defense witnesses. The judge may allow sur-rebuttal by the defense (a rebuttal to the rebuttal).

6. JURY INSTRUCTIONS

Before closing arguments, the judge will instruct the jury carefully as to what law they are to follow. The jury instructions tell the jury what law to apply to the facts and the different verdicts the jury may return. In **civil** cases, a **preponderance of the evidence** favoring one side must be determined. In **criminal** cases, the defendant must be found guilty **beyond a reasonable doubt** or be acquitted.

7. CLOSING ARGUMENT

After the jury instructions are given, both attorneys summarize the evidence and testimony in an effort to persuade the judge or jury to decide the case in favor of their client. The prosecution makes its closing arguments first, then the defense, and then the prosecution responds to the defense's closing arguments. Either side may waive closing arguments.

8. JURY DELIBERATIONS

After closing arguments, the court orders the jury to retire to the jury room for deliberation. The jury is isolated in the jury room, and jurors are not allowed to communicate with anyone outside of the jury. Discussion with the bailiff may be appropriate but only with regard to meals or scheduling of deliberations. The jury will often ask questions of the court, via the jury foreperson's written notes. Jurors usually are told to decide the case on the information they already have. Jurors may ask for clarification on certain issues. Sometimes the foreperson will inform the court that the jury is not making progress in reaching a majority or unanimous vote. At this point, the court must decide what to do, i.e., order the jurors to continue the deliberation or declare a mistrial. Declaring a **mistrial** is a severe decision, and the court will encourage the jurors to deliberate unless there is very little chance of reaching a verdict. If a verdict cannot be reached, the case may be set for a new trial.

9. VERDICT

In **CRIMINAL** cases, a verdict must be **unanimous** and must be given in open court with the defendant present unless he chooses not to be. There are four possible verdicts.

Guilty: The jury must find (a) the state has proved beyond a reasonable doubt the elements of the offense and (b) the defendant committed the offense.

Not Guilty: The jurors find the state has not convinced them beyond a reasonable doubt the defendant committed the offense.

Not Guilty by Reason of Insanity: The jury or the judge must determine that the defendant, because of mental disease or defect, could not form the intent required to commit the offense.

Guilty and Mentally Ill: The court or jury finds the defendant was mentally ill but was still able to form the intent to commit the offense.

If the jury cannot agree on a verdict, the judge may declare a "**hung**" jury, declare a mistrial, and order a new trial.

In **CIVIL** cases, two types of verdicts are rendered: general and special. The verdict does not have to be unanimous; at least **three-fourths** of the jurors must agree to the verdict.

General verdicts: The jury decides the case either in favor of the plaintiff or the defendant. A general verdict can be rendered as to each claim involved.

Special verdicts: Special verdicts do not announce a general decision but simply answer certain factual questions leaving the "total" decision up to the court.

Generally speaking, it is appropriate for attorneys, parties, or the media to ask questions of the jurors after the trial is fully at its end. It is rarely appropriate for anyone, including the judge and the bailiff, to communicate with the jurors during deliberations. In highly confidential and sensitive trials, the court may instruct the jurors not to grant interviews. Jurors do not have to respond to any questions, and their choice of privacy should be respected.

10. SENTENCING/JUDGMENT

In a **CRIMINAL** case, after a verdict of guilty or a plea of guilty, the defendant has the right to be sentenced in no fewer than two or any more than 30 days following conviction. If the defendant chooses, he may waive that time and may be sentenced the day he is convicted. Most judges order **pre-sentence reports** to be prepared by the Department of Corrections Division of Adult Probation and Parole ("AP&P"). AP&P prepares a confidential report for the judge which contains the police report, the defendant's prior adult and juvenile record, the defendant's statement, the defendant's drug and alcohol history, family history, and probation history. AP&P makes a sentencing recommendation which the judge will consider when sentencing the defendant. The judge will impose a sentence which may be a jail or prison term, probation, fine, restitution, or a combination of penalties.

In **capital** cases, the defendant has a **sentencing hearing** during which the defense counsel introduces evidence that shows the mitigating circumstances outweigh the aggravating circumstances thereby justifying a life sentence over the death penalty. The state introduces evidence attempting to prove the aggravating circumstances outweigh the mitigating circumstances beyond a reasonable doubt, thereby justifying the death penalty. The jury or judge then deliberates whether the person should be given the death penalty or a life sentence.

In a **CIVIL** case, after the verdict (if there is a jury) or after the court has decided the

facts in a bench trial, a judgment is rendered. The court **awards money damages** or **injunctive relief** (which means the losing party is ordered to do something or to stop doing something). The court also awards attorneys' fees to the winning party if there are circumstances which justify such an award. The court may also award the winning party "costs" which means the losing party must pay for certain costs of the litigation which may include the cost of depositions, of expert witness fees, or court filing fees.

A variety of **post-trial motions** can be filed. For example, a motion for a new trial, motion for judgment notwithstanding the verdict (asking the judge to override the jury's verdict), or a motion for *remittitur* or *additur*. *Remittitur* essentially asks the court to reduce the amount of money damages awarded to the winning party; *additur* asks the court to increase the awarded money damages. Trial judges have great discretion in these matters.

11. APPEAL

Criminal Case. The prosecution may appeal a case in very limited circumstances, and this appeal is generally handled by the Attorney General's Office.

The defendant may appeal a wider range of matters. Either party must file their appeal within 30 days after the entry of judgment. Most appeals from District and Juvenile Court judgments are taken to the Court of Appeals. First degree felonies and capital cases where the death penalty has been given must be reviewed by the Utah Supreme Court.

Civil Case. Any final judgment is appealable. However, the appealing party must appeal on the basis of an asserted error by the trial court. Frequent errors asserted as grounds for appeal are decisions regarding evidentiary matters, jury instructions, or other matters of law. The jury's finding of facts is generally not disturbed on appeal unless it appears to be "clearly erroneous."

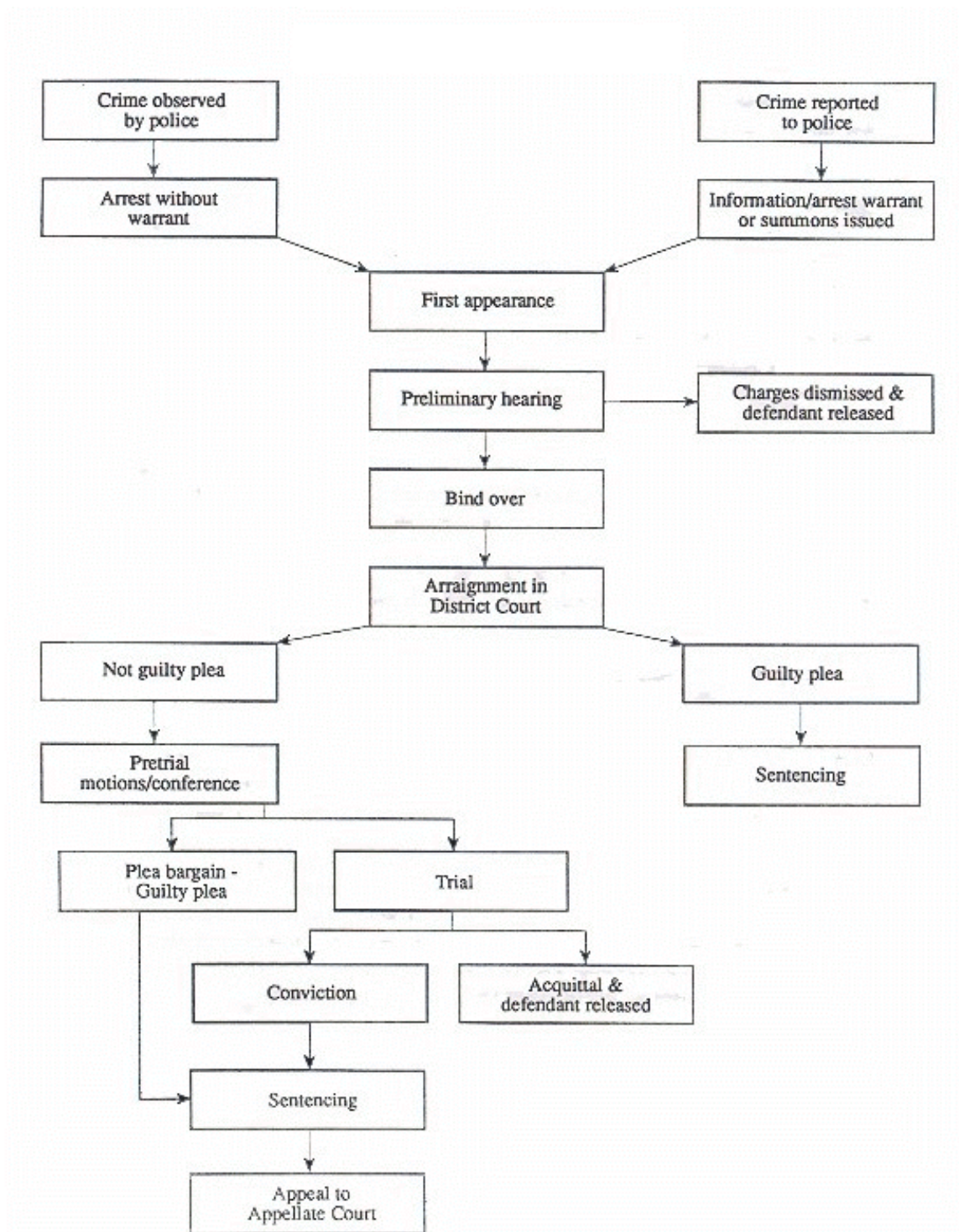
Decisions from the District Court are appealed to the Court of Appeals. The losing party (appellant) must file a notice to appeal in the District Court within 30 days of the entry of judgment.

Death Penalty Cases. The appeals process in death penalty cases varies with each case. There is an automatic review of all death sentences at the state level to the Utah Supreme Court. The defendant may appeal any adverse ruling of the Utah Supreme Court to the U.S. Supreme Court through a writ of certiorari. The U.S. Supreme Court is not required to hear the appeal; it is discretionary.

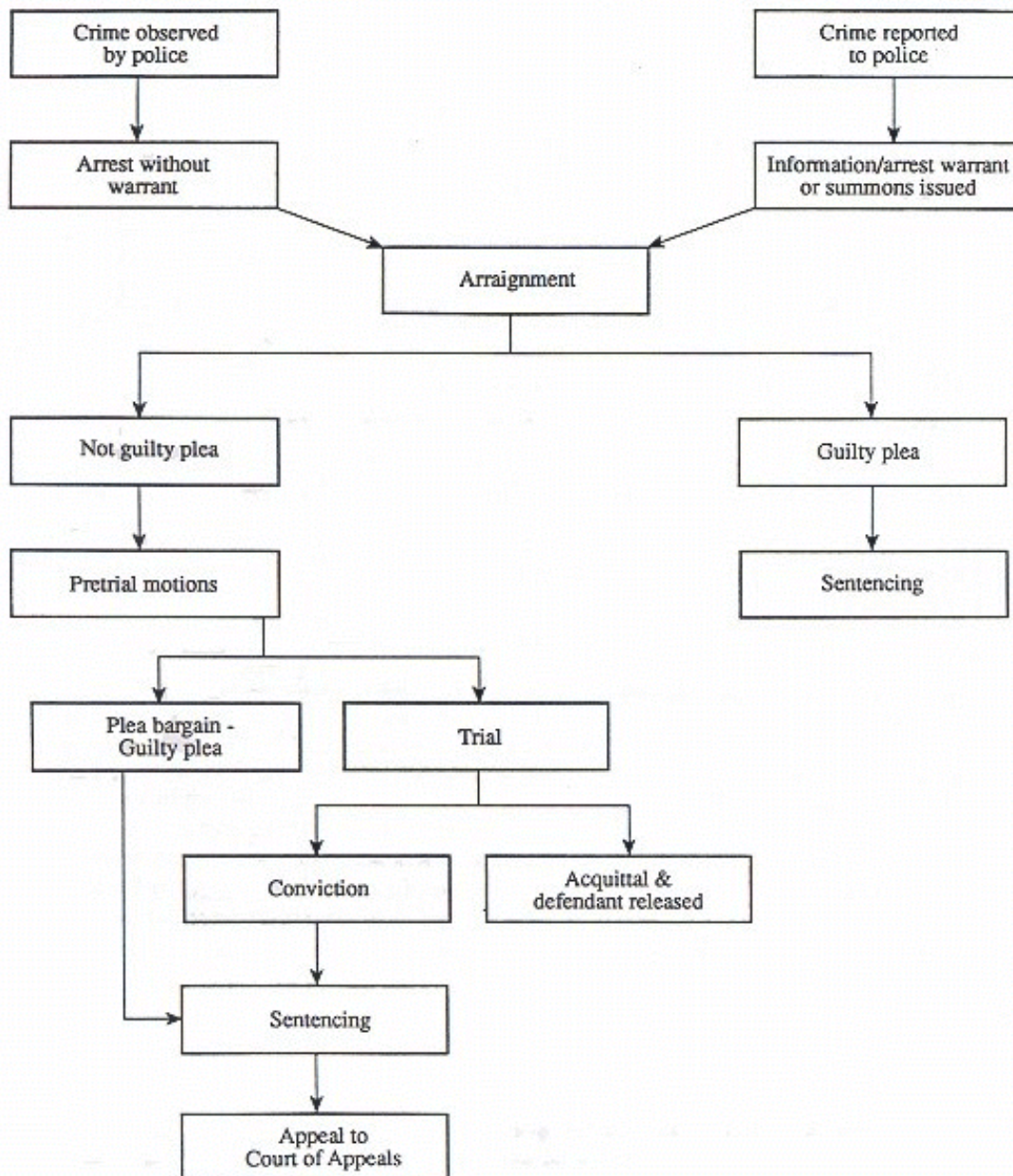
In the simplest form, a collateral appeal may be filed in the federal system where the case would advance from federal District Court in Utah to the 10th Circuit Court of Appeals in Denver. At any level, the case can be sent down for an evidentiary hearing.

Habeas Corpus Proceedings. These are post conviction proceedings whereby the petitioner asserts s/he is unjustly imprisoned. A petitioner can initiate either a state habeas challenge or a federal habeas challenge, and each proceeds through its system. State habeas proceedings start in state District Court; federal habeas proceedings start in federal District Court.

FELONY CASE PROCESS



MISDEMEANOR CASE PROCESS



CRIMES AND PUNISHMENTS

OFFENSE	PENALTY	MAXIMUM FINE
Capital Felony	Life imprisonment, life imprisonment without parole, or death	
1st Degree Felony*	5 years to life (state prison)	\$10,000
2nd Degree Felony	1 to 15 years (state prison)	\$10,000
3rd Degree Felony	0 to 5 years (state prison)	\$ 5,000
Class A Misdemeanor	0 to 1 year (county jail or state prison)	\$ 2,500
Class B Misdemeanor	0 to 6 months (county jail)	\$ 1,000
Class C Misdemeanor	0 to 90 days (county jail)	\$ 750
Infractions	no jail	\$ 750

*Minimum mandatory sentences. Some first degree felonies involving child kidnapping, rape of a child, sodomy of a child, or aggravated sex abuse of a child are punishable by a minimum mandatory term of imprisonment (rather than an indeterminate sentence). The minimum mandatory term may be for 5, 10, or 15 years, or may be for life. In the case of aggravated sex abuse of a child, the term may be for 3, 6, or 9 years, or may be for life. Under certain limited circumstances these sentences may be stayed, and the defendant may be given probation.

PLANNING THE TOUR

This information will help you plan your visit:

Courts are in session between 9:30 a.m. and 4:30 p.m. with noon recess generally from 12:00 - 2:00 p.m. Tours are scheduled from 9:30 to 11:30 a.m.

Most proceedings are open to the public.

It is possible to observe two and probably three different judicial proceedings. Requests are welcome.

IT IS HELPFUL FOR STUDENTS TO HAVE A WORKING KNOW-LEDGE OF JUDICIAL VOCABULARY AND PROCEDURE PRIOR TO THE VISIT. They need to read at least the introductory section of this manual (pp. 1-4). Several learning activities are outlined on pp. 23-40 of this manual.

After, there may be an opportunity for students to ask questions.

Groups must be adequately chaperoned.

COURT TOUR RESERVATION

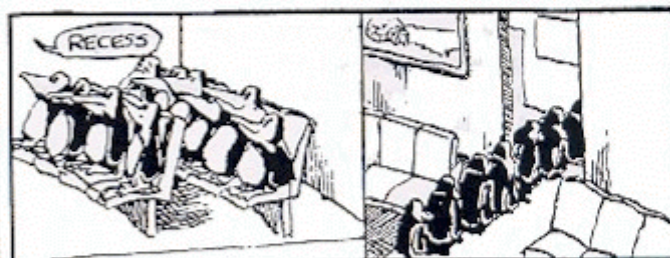
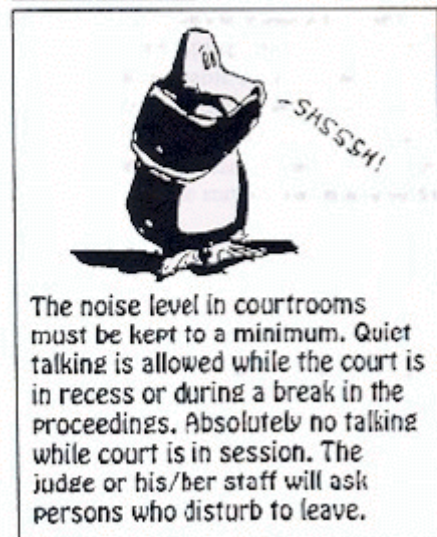
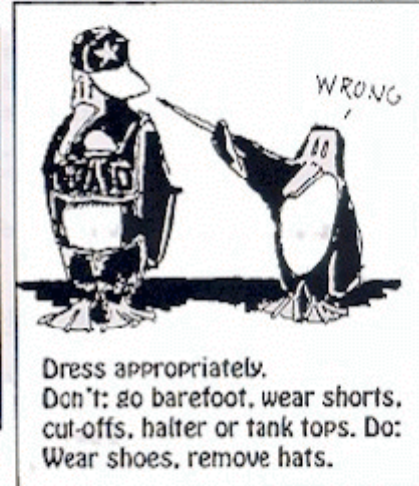
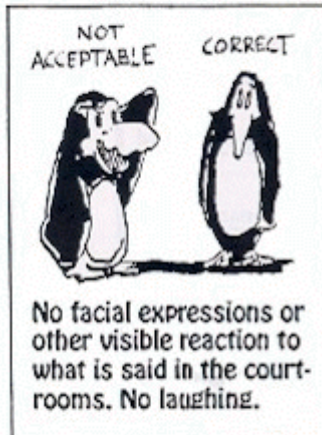
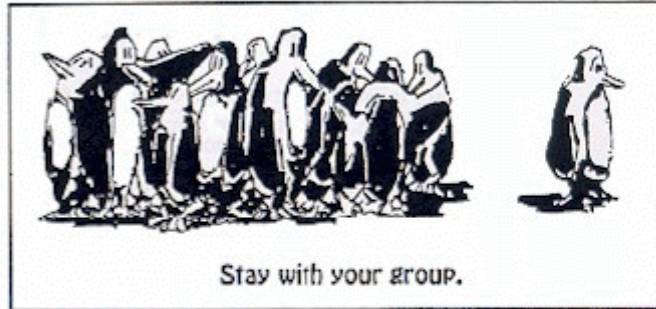
Schedule your visit three to four weeks in advance, if possible. It may be possible to schedule a visit with less notice, however. Please provide longer notice for large groups. Call Janet Hilliard at 322-1802 or leave a message on the answering machine and provide her with the following information:

1. Name of School
2. School Phone
3. Name of School District
4. Name of Teacher
5. Number of Students (preferably no more than 30 or one class)
6. Date of Visit
7. Grade Level/Class

Please return the evaluation form (on page 43) after your visit to the court. Your responses will enable us to improve our program in the future.

Courthouse Behavior

For a most productive visit, please make sure your students are familiar with the following guidelines for conduct in the courthouse.



STUDENT ACTIVITIES

IN DISTRICT COURT YOU MAY OBSERVE THE FOLLOWING. . .

Misdemeanor Arraignment:

A person's first appearance, is advised of rights, may plead guilty and be sentenced.

Misdemeanor Sentencing:

The sentencing of persons who plead guilty to minor crimes.

Civil Trials:

A civil case is usually brought by a person who claims that he has been treated improperly or has been denied a right to which he is entitled.

Small Claims Court

A court in which disputes involving less than \$5,000 are decided promptly and economically. The following types of cases are heard:

- collect unpaid bills
- claims for damages
- recovery of uncollectible checks

Small Claims Court is held Tuesday, Wednesday, and Thursday evenings beginning at 5:30 p.m.

Criminal Trials:

A criminal case is brought by a government against persons accused of committing misdemeanor crimes. (Jury or non-jury)

Preliminary Hearing:

After witness testimony, the judge determines if there is sufficient evidence to establish probable cause to believe a crime has been committed by the defendant named. Case is then bound over to District Court for trial.

Traffic Hearing:

A hearing established to deal with cases which arise from minor traffic incidents such as:

- accidents
- speeding
- failure to yield right of way

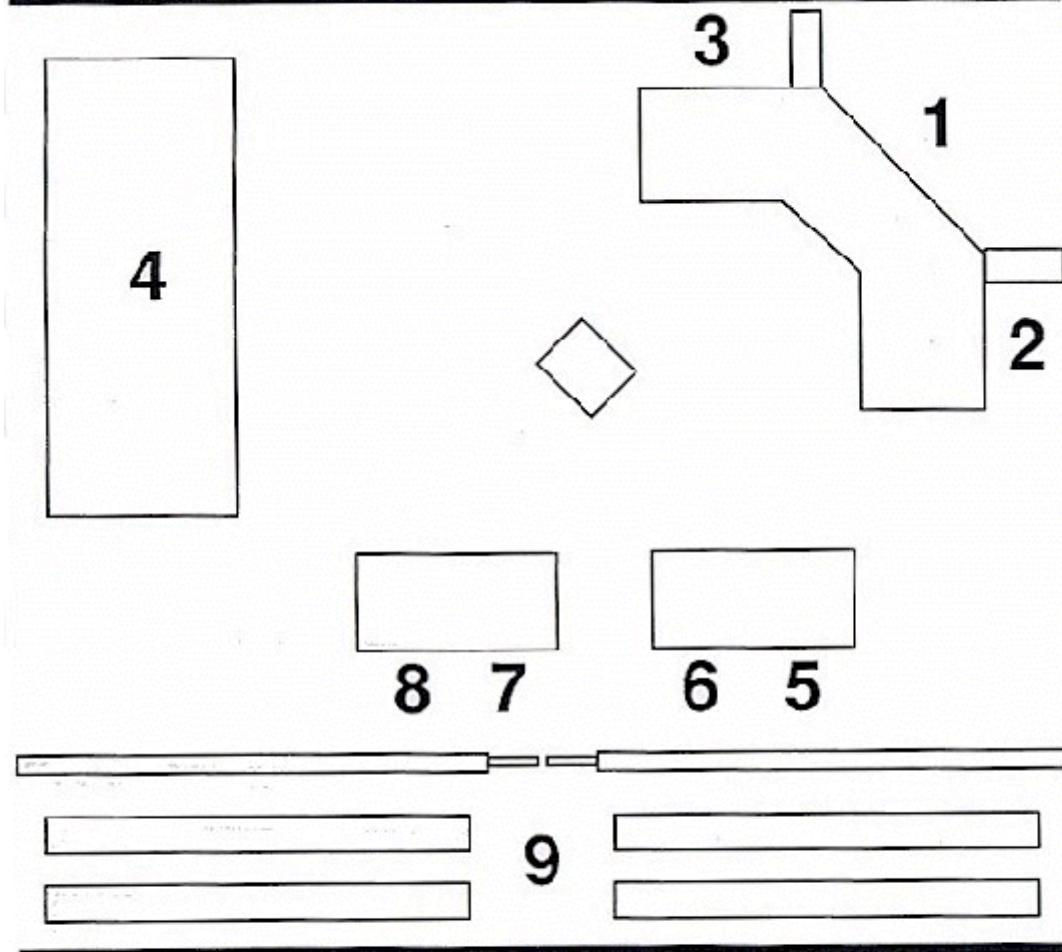
Law and Motion:

A setting at which time a variety of motions or pleas of legal technicality or requests for certain charges may be requested. The Judge interprets the law with regard to the motion. Normally evidence is not taken. The presence of the plaintiff and defendant is not required.

Felony Information Hearing:

This takes place in arraignment court and is the initial appearance for a person charged with a felony. Date is set for Preliminary Hearing.

Civil Trial Court



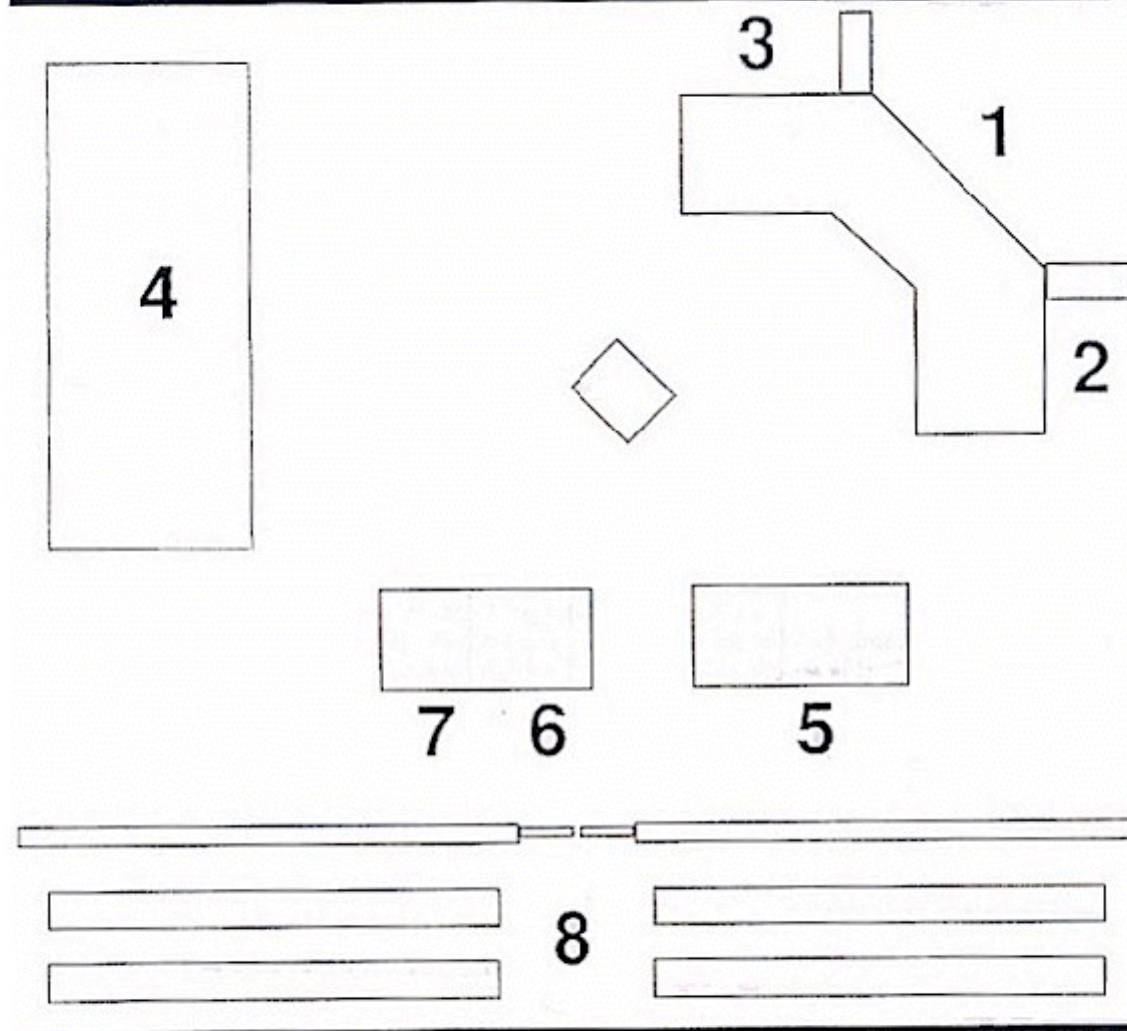
Personnel:

Audience
Defendant
Defendant's Attorney
Judge
Judge's Clerk

Jury
Plaintiff
Plaintiff's Attorney
Witness

- | | | |
|----------|----------|----------|
| 1. _____ | 4. _____ | 7. _____ |
| 2. _____ | 5. _____ | 8. _____ |
| 3. _____ | 6. _____ | 9. _____ |

Criminal Trial Court



Personnel:

Audience
Defendant
Defense Counsel
Judge

Judge's Clerk
Jury
Prosecutor
Witness

1. _____
2. _____
3. _____
4. _____

5. _____
6. _____
7. _____
8. _____

COURTROOM DIAGRAMS ANSWER SHEET

Civil or Criminal Trial Court

- ! The Judge is always in the #1 position.
- ! The clerk and witness might be on either side of the judge (#2 or #3) depending on the courtroom.
- ! The jury box is #4. (It can be on either side of the courtroom.)
- ! Plaintiff and Defendant (or Defendant and Prosecutor in the case of a criminal trial) can sit at tables on either side of the courtroom in front of the judge. (#s 5-8)

UNDERSTANDING COURTS AND COURT CASES

In-class Mini-trials

INTRODUCTION

This simulation simplifies the trial experience to allow students to focus on the essence of judicial decision-making, the issues of a case.

OBJECTIVES:

1. Students will understand the way a simplified judicial decision is made.
2. Students will discern the issue from a very simple fact situation.

TIME REQUIRED: 1-2 Class Periods

GRADE LEVEL: 4th-6th

PROCEDURE:

1. Explain to students that judicial problems come to court as "cases." Give a simple explanation of the "Mini-trial" activity, stressing the roles to be played in each trial. Primarily students should realize that at the heart of every trial is an *issue* to be decided. They must first determine as precisely as possible what the defendant and the plaintiff are asking the judge to decide.
2. Divide the class into 10 groups of 3. Assign each student in each group a role: judge, plaintiff, or defendant. Rotate roles for the first three cases.
3. Using the role descriptions in Handout #1, read the brief statements about each role to the class.
4. Choose one case from those given in Handout #2 and distribute the list of facts for that case. Do not discuss the issue or the decision at this time.
5. Have the students role play within their individual groups. The plaintiff speaks first, then the defendant. The judge may ask questions before making a decision. The judge then gives his/her reasons.
6. Discuss the issues and the decision with the whole class. Distribute Handout #4 if desired. The purpose of Handout #4 is to suggest the most obvious underlying issues. The decision listed might not be the only "right" decision.
7. Rotate the roles and repeat the procedure with one or two of the additional cases in Handout #3. Debrief the simulation with the following questions:
 - a. Which is the most difficult role to play? Why?
 - b. How well did the "actors" play their roles?

- c. Were the judges' decisions "fair?"
- d. If *you* were the judge, would you have decided the case differently?

NOTE: Many attorneys serve pro bono (without pay) as judges for small claims court. If you don't know of one, you can get their names by calling the clerk of the small claims court. It would be interesting and informative to invite a pro bono judge to your class to examine small claims procedures in Utah.

HANDOUT #1

Mini-trial Activity

Roles to be Played

Judge: The judge must see that both sides have a fair chance to present their cases. The judge should not interrupt or dominate the proceedings. In Part II, when the parties are represented by attorneys, s/he must decide whether a law has been broken. If so, s/he must uphold the law.

Defendant: This person has been accused by the plaintiff. S/he has been summoned into court and is probably appearing against his/her will. S/he listens to the accusation and then either tries to prove it untrue or gives reasons to justify his/her actions.

Plaintiff: This person has accused the defendant of doing or not doing something which s/he thinks is unfair. S/he is the one who has asked the court to hear the case. In Small Claims Court the plaintiff is asking the judge to make the defendant pay him/her an amount of money (under \$5,000 in Utah). S/he speaks to the judge first.

Plaintiff's Attorney: S/he tries to prove the accusation is true. This attorney may ask questions of fact of the defendant and the plaintiff. S/he may not ask for their opinions. S/he speaks first.

Defendant's Attorney: S/he listens to the plaintiff's attorney and then tries to show that either the defendant did not do what s/he was accused of doing or that s/he had good reasons for doing it.

Observer: Your task is to listen carefully to the testimony of the plaintiff and the defendant and try to answer questions.

HANDOUT #2

Mini-trial Activity

FIRST CASE -- FACTS

1. Plaintiff is the assistant to a newspaper delivery boy.
2. Defendant is newspaper delivery boy.
3. Defendant became sick and asked his helper, the Plaintiff, to deliver fifty papers. Plaintiff agreed to deliver the papers for \$3. Plaintiff delivered papers but did not place them in mail boxes or inside halls. Twenty-five newspapers were ruined in the rain, and Defendant refused to pay the \$3 to the Plaintiff. Plaintiff sues.
4. What is the issue?
5. How would you decide? Why?

SECOND CASE -- FACTS

1. Plaintiff is a baby-sitter.
2. Defendant is a parent.
3. The Plaintiff agreed to baby-sit for the Defendant's two children for two dollars per hour. When the baby-sitter arrived, there was a third child, a cousin, present. Plaintiff said nothing about an increased rate but demanded three dollars per hour when Defendant returned home two hours later, claiming the rate to be one dollar per hour per child. The Defendant refused to pay the additional one dollar per hour. Plaintiff sues.
4. What is the issue?
5. How would you decide? Why?

THIRD CASE -- FACTS

1. Plaintiff is a comic book collector.
2. Defendant is a classmate.
3. Plaintiff loaned ten comic books to Defendant for one week. The books were in very good condition and Plaintiff warned Defendant to be careful with them. The Plaintiff had paid \$2 a copy for the books or a total of \$20.00. Defendant returned five comic books in good condition, but five were torn and ripped. Plaintiff demanded \$20.00 from the Defendant to cover costs. Defendant refused. Plaintiff sues.
4. What is the issue?
5. How would you decide? Why?

FOURTH CASE -- FACTS

1. Plaintiff is the owner of a ten speed bicycle.

2. Defendant is the owner of a bicycle repair shop.
3. Plaintiff brought the bicycle into the shop when the gears didn't shift properly. Plaintiff told Defendant/owner to fix the gears as much as possible but not to do anything that would cost more than \$50.00. When the Plaintiff came to pick up the bicycle the next week, he found that the shop had installed brand new gears and had sold his broken gear shift to a bicycle used parts company. The Defendant told Plaintiff that he would pay \$50.00 since that was the amount he said was as high as he could go. The Defendant said he would not get the bicycle back until \$100.00 was paid. Plaintiff sues.
4. What is the issue?
5. How would you decide? Why?

HANDOUT #3

ISSUES AND DECISIONS

Mini-trial Activity

In this exercise, students gain the most from coming up with their own conclusions about which issues were the most important in each case. Implying that there is only one "right" decision in each case could distort reality. This handout is provided to acquaint teachers with basic principles of law that appear to be involved in each case.

FIRST CASE

Issue: Did the assistant fail to live up to his agreement? If so, what would be the appropriate remedy?

Decision: It appears from the facts that the Plaintiff did what he had agreed to do. He agreed to deliver the papers and did just that. The agreement did not specify that he had to put papers in the mailboxes or inside halls. On the other hand, it is important to remember that the Plaintiff was an assistant to the Defendant. Since he was an assistant, he knew from experience that delivering the papers included putting them in the mailboxes and in the halls. Therefore, it is clear that the Plaintiff should have done what he knew from his experience to be the right thing. It might be concluded, therefore, that half of the papers did get delivered successfully and half did not. Judgment would, therefore, be for the Plaintiff for \$1.50. One dollar fifty cents is appropriate since the agreement was for fifty papers, and twenty-five people got their papers in good condition.

SECOND CASE

Issue: Is the Plaintiff entitled to the additional \$1.00 per hour?

Decision: From the facts, it appears the Plaintiff had agreed to baby-sit for \$2.00 per hour. When the Plaintiff arrived on the job and saw an additional child, she did not say she wanted more money. The Plaintiff did not tell the Defendant that she expected \$1.00 per child when they made the agreement. It was, therefore, unfair for the Plaintiff to demand this amount after the fact. The Defendant understood that the charge was \$2.00 per hour and not \$1.00 per child. To give the \$1.00 additional fee per hour would be unfair to the Defendant. Judgment for the Defendant.

THIRD CASE

Issue: Is the Plaintiff entitled to damages if Defendant returns loaned comic books in a

condition different from the condition the books were in when they were received?

Decision: When one loans an item to someone, s/he is entitled to get it back in a condition reasonably similar to the condition it was in when it was loaned. In this case, five of the books were returned in a torn and ripped state. It is obvious that the Defendant did not exercise reasonable care while he read the books, and it is, therefore, unfair to return them in poor condition. What would be the measure of damage? If it can be shown that the Plaintiff could get the same comic books for \$2.00 each, the Plaintiff would be entitled to \$10.00 and the Defendant could keep the torn books. If the books were irreplaceable, the Plaintiff would be entitled to the \$20.00 he sought. Judgment for the Plaintiff.

FOURTH CASE

Issue: Can the Defendant do more than he was authorized to do by the Plaintiff without first making an additional agreement with the Plaintiff?

Decision: No. The bicycle repair shop cannot take unfair advantage of a customer. The Plaintiff/customer had placed limitations on what the shop could do. The shop cannot do more without consulting the customer. Since it was too late to return the bicycle to the condition in which it was brought in, the shop must give the bicycle with the new gear to the Plaintiff for \$50.00. Judgment for the Plaintiff.

NEWSPAPER ACTIVITY

Court Tour Program Follow-Up Activity (grades 7-12)

Objectives:

After completing this lesson the students will be able to:

1. Define court-related terminology in local news articles.
2. State the nature of the charge against the defendant in a criminal trial and understand the trial procedures and outcome of the trial observed in court.
3. Compare what the students observed in court with the news reporting of the same event.

Materials:

1. A current daily newspaper, local section.
2. Law-related textbooks such as Street Law or Criminal Justice, a law dictionary, or a copy of the court tour handbook, Your Day in Court, available through the Utah Law-Related Education Project, 645 South 200 East, SLC, UT 84111 (801-322-1802).

Procedure:

1. Students will have attended sessions of a criminal trial or preliminary hearing in District Court prior to this activity.
2. News articles will be located in the local news section that pertain to the case or cases that students observed in court.
3. After students read the news article, they will find, list, and define all court-related terminology.
4. Main points of the articles will be discussed and comparisons will be made with what the students observed in the courtroom. Some items students will consider are:
 - a. Name of person charged with the crime.
 - b. Charges against the individual.
 - c. Testimony given by witnesses and defendant.
 - d. Points made by the prosecutor and defense attorney.
 - e. Was this a jury or bench trial?
 - f. Was the defendant found to be innocent or guilty? (If this were a preliminary hearing, was the case bound over to the District Court for trial?)
 - g. What the sentence was and why.
 - h. What questions did this case raise?

ADDITIONAL RESOURCES

The following resources may prove useful in conjunction with the court tour.

American Bar Association: 750 North Lake Shore Drive, Chicago, Illinois, 60611, (Youth Education Programs), Phone: 312-988-5735; email: rbanazak@staff.abanet.org

American Civil Liberties Union: 355 North 300 West #1, Salt Lake City, Utah, 84103, Phone: 521-9289; email: aclu@xmission.com

Legal Aid Society: 225 South 200 East, Salt Lake City, Utah, Phone: 328-8849

Salt Lake City Police Department: 315 East 200 South, Salt Lake City, Utah, 84111, Phone: 799-3000

Salt Lake City Prosecutor's Office: 451 South 200 East, Suite 125, Salt Lake City, Utah, 84111, Phone: 535-7991

Salt Lake County Sheriff's Office: 437 South 200 East, Salt Lake City, Utah, Phone: 535-5441

State Court Administrator's Office: 450 South State Street, Salt Lake City, Utah, 84111, Phone: 578-3800

Utah Law-Related Education Project: 645 South 200 East, Suite 101, Salt Lake City, Utah, 84111, Phone: 322-1802; web site: www.amsquare.com/lre; email: lre@icw.com

Utah State Bar Association: 645 South 200 East, Salt Lake City, Utah, 84111, Phone: 531-9077; web site: www.utahbar.org

EVALUATION OF COURT TOUR PROGRAM

Name of teacher: _____ Grade Level: ____

School: _____

Name of class/subject: _____

Number of students participating in tour: ____

Date of court visit: _____

Please complete the evaluation completely and return it to the Utah Law-Related Education Project within one week of completion of your Court Tour.

Did you receive the manual in adequate time to prepare your students prior to the Court Tour? Yes No

What parts of the manual were most helpful to you in preparing your students for the program?

What other materials would you like to see included in the manual?

Please cite two specific comments made by your students after the Court Tour.

What was the student/teacher reaction to the courtroom experience? Please circle the type of court session(s) visited: arraignment, preliminary hearings, civil, criminal, small claims, traffic, other

Did the "Court Tour" meet your expectations? Yes No

Explain:

Overall, I would rate this experience for my students as:

(circle one: 1 = low, 10 = high) 1 2 3 4 5 6 7 8 9 10

I would/would not (circle one) like to participate in another court tour if it is offered next year.

Other suggestions or comments:

Please mail your evaluation to:

Janet Hilliard
Utah Law-Related Education Project
645 South 200 East, Suite 101
Salt Lake City, Utah 84111-3834

GLOSSARY

ACQUIT: To be found not guilty.

ACTION, CASE, SUIT, LAWSUIT: A legal dispute brought into court for trial.

ADVERSARY SYSTEM: The system of trial practiced in the United States in which each of the opposing parties has full opportunity to present and establish his/her opposing contentions before the court.

AFFIDAVIT: A written and sworn statement witnessed by a notary public or another official possessing the authority to administer oaths.

ALIBI: An excuse or plea that a person was somewhere else at the time a crime was committed.

APPEAL: The bringing of a case to a higher court for a rehearing.

APPELLATE COURT: A court which hears appeals from a lower court.

ARRAIGNMENT: In a misdemeanor case, the initial appearance before a judge at which the defendant is told his rights, given a lawyer, and enters his plea; in a felony case, the proceeding after the indictment at which the defendant comes before a judge, has the charge read to him, and a date is set for his preliminary hearing.

ARREST: To deprive a person of his liberty by a legal authority.

ATTORNEY, LAWYER: A person who has been trained and licensed to represent others in legal matters.

BAIL: A sum of money posted by a defendant to guarantee his appearance in court after being released from jail.

BAIL BONDSMAN: A person who posts bail to obtain the release of a defendant from jail in exchange for a fee, usually 10% of the total bail.

BAILIFF: A court official whose duties are to keep order in the courtroom and assist the jury.

BENCH TRIAL: Trial without a jury in which the judge decides the case.

BENCH WARRANT: An order of the court to appear immediately when a defendant fails to appear in court.

BEYOND A REASONABLE DOUBT: Entirely convinced; in a criminal case the defendant's guilt must be proven to the jury to this extent.

BOOKING: Being placed in jail.

BRIEF: A lawyer's written statement of his client's case.

BURDEN OF PROOF: In criminal cases, the prosecution must prove his/her case "beyond a reasonable doubt." In civil cases, the plaintiff must prove his/her case with a "preponderance of evidence" or in some cases by "clear and convincing" evidence.

CALENDAR: List of cases set down especially for arraignment, hearing, trial, or arguments.

CASE LAW (COMMON LAW): The law made by courts instead of by legislatures.

CHAMBERS: A judge's private office in the courthouse.

CHANGE OF VENUE: Properly speaking, the removal of a suit begun in one county or district to another county or district for trial, though the term is also sometimes applied to the removal of a suit from one court to another court of the same county or district.

CHARGE: The statement accusing a person of committing a crime.

CITATION: An act of the court through its proper officer commanding the appearance of defendant named to appear on a day to answer to a particular charge.

CIVIL CASE: A lawsuit to enforce a right or gain payment for a wrong (other than a criminal offense) done to a person or party by another person or party.

CLASS "A" MISDEMEANOR: A criminal offense punishable by a year in the county jail or state prison and/or \$2,500 fine. Examples: D.U.I. with injury, gambling, false information to a police officer.

CLERK: Court official who keeps court records, official files, and administers the oath to jurors and witnesses.

CONDITIONAL RELEASE: A non-security release from custody which imposes regulations on the activities and associations of the defendant.

CONTEMPT OF COURT: Any act involving disrespect to the court or failure to obey its rules or orders.

CONTINUANCE: Order of court postponing proceedings.

CONTRACT: A legally enforceable agreement between two parties who each promise to do certain things.

CONVICTION: In a criminal case, a finding that the defendant is guilty.

CORROBORATION: Confirmation or support of the story of a witness or victim.

COUNTY ATTORNEY: A lawyer employed by the government to prosecute criminal cases; also referred to as prosecutor.

COURT: Place where judges hear lawsuits, where lawyers represent each side and witnesses give testimony for the jury to reach a verdict and the judge to make a judgment.

COURT REPORTER: A court official whose duty it is to make permanent record of all proceedings.

CRIMINAL CASE: A case brought by the government against a person accused of committing crimes.

CROSS-EXAMINATION: The questioning of a witness by the lawyer for the opposing side.

DAMAGES: Money that a court orders paid to a person or party (usually the plaintiff) who has suffered a loss by another person or party who caused the loss (usually the defendant).

DEFENDANT: The accused in a criminal case; the person from whom money or other recovery is sought in a civil case.

DEFENSE ATTORNEY: The lawyer who defends the defendant or the accused person.

DELIBERATION: The deciding of "guilty" or "not guilty" in private by the jury after the evidence has been given and the witnesses have been questioned.

DEPOSITION: The written testimony of a witness taken under oath outside of court.

DIRECT EXAMINATION: The first interrogation or examination of a witness, on the merits, by the party on whose behalf he is called.

DOCKET: A brief entry in the book containing such entries of any proceeding in a court of justice.

DUE PROCESS: Law in its regular course of administration through the courts. The guarantee of due process requires that every person have the protection of a fair trial.

EVIDENCE: Any species of proof, legally presented at the trial of an issue, by the act of

the parties and through the medium of witnesses, records, documents, concrete objects, etc., for the purpose of inducing belief in the minds of the court or jury.

EXCLUSIONARY RULE: Evidence which was obtained illegally cannot be used in a criminal trial against a defendant.

EXHIBITS: Objects presented in court to prove the facts of a case.

EXTRADITION: The surrender by one state to another of an individual accused or convicted of an offense outside its own territory and within the territorial jurisdiction of the other, which, being competent to try and punish him, demands the surrender.

FELONY: Each state will have its own definition of a felony. In Utah a felony is dependent upon the degree of the crime committed. A felony is a major crime usually punishable by a fine and/or period of confinement in a state correctional institution. Examples of felonies are: assault with a deadly weapon, burglary, rape, grand larceny, murder, and possession of a controlled substance with intent to sell.

FINE: A sum of money paid as part of a penalty or conviction for a particular offense.

GARNISHMENT: A court order to take part of a person's wages before he gets them because an unpaid debt is owed to a creditor.

GRAND JURY: Twelve to 23 citizens who hear evidence to decide whether a defendant should be held for a felony trial.

GUILTY: The state of having committed the crime. The defendant can enter a plea of "guilty" or the jury can give a verdict of "guilty".

HABEAS CORPUS: Latin phrase meaning "you have the body"; in criminal cases it refers to a court order to have a prisoner released if he is being held illegally.

HUNG JURY: A jury unable to reach a verdict as required by law.

INCARCERATION: Imprisonment; confinement in a jail or penitentiary.

IN CONTEMPT OF COURT: To cause an act which is calculated to embarrass, hinder, or obstruct court administration of justice, i.e., to refuse to obey an order of the court or show disrespect to the judge or jury.

INCRIMINATE: Involve or make to appear guilty of a crime.

INDICTMENT: An accusation made by a Grand Jury that the accused has violated a law (used only with felonies).

INFORMATION (COMPLAINT): The first paper filed in a lawsuit which states the wrong done to the plaintiff by the defendant and a request for a remedy by the court.

INFRACTION: A breach, violation, or infringement of a minor law punishable only by fine and not imprisonment; most commonly used in traffic laws. (Exceptions are D.U.I., reckless driving, hit & run.)

INJUNCTION: A court order forbidding a certain action.

INNOCENT: Not guilty.

JAIL: A prison; a building designated by law, or regularly used, for the confinement of persons held in lawful custody.

JUDGE: A person appointed or elected to hear and decide questions of law in court cases and to make certain that fair procedures are used.

JUDGMENT: The official decision of a court.

JURISDICTION: The legal authority of a court to hear a case or conduct other proceedings; power of the court over person and subject matter.

JURY: A group of people chosen by law and satisfactory to both sides of a lawsuit, to decide facts about the case.

JURY TRIAL: Trial whereby a group of citizens listens to the evidence presented in court and gives its verdict.

JUSTICE OF THE PEACE: A judicial officer having (usually) civil jurisdiction limited to that prescribed by statute in civil cases and criminal proceedings, prosecutions, and commitments of offenders.

LARCENY: Larceny is fraudulent taking and carrying away of a thing without claim of right, with intention of converting it to a use other than that of the owner, without his consent.

LAW AND MOTION: A setting before the Judge at which time a variety of motions or pleas of legal technicality or requests for certain changes may be requested. The Judge interprets the law with regard to the motions. Normally, evidence is not taken. The presence of the plaintiff and defendant is not required.

LIABILITY: A legal responsibility, obligation, or debt.

LIEN: A charge, security, or encumbrance upon property.

LITIGANT: A party to a lawsuit; one engaged in litigation; usually spoken of active parties.

MANSLAUGHTER: The unlawful killing of another without malice, either express or implied, which may be either voluntarily, upon a sudden heat, or involuntarily, but in the commission of some unlawful act.

MISDEMEANOR: A minor offense which is punishable by a jail term of not more than six months and/or a fine of no more than \$1000. All city and county ordinances are misdemeanors. Some state laws are misdemeanors. Examples of misdemeanors are: shoplifting, trespassing, assault and battery, sex acts for hire, possession of a controlled substance.

MISTRIAL: A trial which is void because of some error.

MOTION: A request presented to the court in legal form.

MUNICIPAL ORDINANCE: A law, rule, or ordinance enacted or adopted by a municipal corporation for the proper conduct of its affairs or the government of its inhabitants.

NOLO CONTENDERE: Latin phrase meaning "I will not contest it"; a plea in a criminal case which has a similar legal effect as pleading guilty, except that the defendant does not actually admit having committed the crime. ("No Contest")

OATH: The swearing before the court that you will tell the truth or decide the case fairly. Witnesses and jurors take oaths.

OBJECTION OVERRULED: To reject as invalid; used by the judge to indicate lack of agreement with a lawyer's motion or request.

OBJECTION SUSTAINED: Support or agree with; used by the judge to indicate agreement with a lawyer's motion or request.

ORDER TO SHOW CAUSE: Order of the Court requiring a party to appear and show cause why a contempt citation should not be issued.

ORDINANCE: A rule established by authority; a permanent rule of action; a law or statute. In a more limited sense, the term is used to designate the enactments of the legislative body of a municipal corporation.

PAROLE: Release from prison before the full sentence has been served; granted at the discretion of a parole board.

PERJURY: Lying while under oath.

PLAINTIFF: The person or party who files a complaint and brings legal action against another person or party.

PLEA: The defendant's response to a criminal charge (guilty, not guilty, or nolo contendere).

PLEA BARGAINING: Negotiations between a defense attorney and a prosecutor in which a guilty plea is exchanged either for a lesser charge or a lesser sentence.

PRECEDENT: A rule of law established by an appellate court for a particular type of case.

PREJUDICIAL: Evidence which might unfairly sway the judge or jury to one side or the other.

PRELIMINARY HEARING: An information hearing in District Court which screens felony cases by deciding whether or not there is enough evidence to warrant a trial in the District Court. The defendant may waive this hearing. If sufficient evidence is determined at the hearing by the judge, the defendant is "bound over" for trial in District Court.

PREMEDITATION: When a crime was thought about beforehand.

PRE-SENTENCE REPORT: An investigation conducted at the request of the court after a person has been found guilty of an offense. The purpose is to provide the court with extensive background information to enable an appropriate sentence.

PROBABLE CAUSE: Reasonable grounds for belief that a person should be arrested or searched.

PROBATION: A sentence releasing the defendant into the community under the supervision of a probation officer (possible only where the law does not require a minimum jail term for the crime).

PROSECUTOR: The name of the public officer who is appointed in each county to conduct criminal prosecutions on behalf of the state or people.

PUBLIC DEFENDER: Lawyers regularly employed by the government to represent people accused of crimes and who cannot afford to hire their own lawyer.

PUNITIVE DAMAGES: Money awarded by a court to an injured person in order to punish the person who hurt him.

RECOGNIZANCE: Allowing a person to be released from jail upon his/her own word that s/he will appear in court at the designated time and place. Recognizance is given in connection with a person's ties to the city (family, job, etc.).

RESTITUTION: Court-ordered payment to restore goods or money to the victim of a

crime by the offender.

RESTRAINING ORDER: Similar to an injunction; however, usually issued in a divorce proceeding; commanding the party to leave the other party alone.

SEARCH WARRANT: An order in writing, issued by a justice or other magistrate, in the name of the state, directed to a sheriff, constable, or other officer commanding him/her to search a specified area for persons or property alleged to have been stolen, or for unlawful goods, and to bring the same before the magistrate.

SECURITY RELEASE: A release from jail on a promise to appear in court at all appropriate times, secured by cash, stocks or bonds, or real property.

SENTENCE: The judgment formally pronounced by the court or judge upon the defendant after his/her conviction in a criminal prosecution, awarding the punishment to be inflicted.

1. *Civil* - In civil cases, the terms judgment, decision, award, finding, etc. are used.
2. *Suspended* - Postponing of the execution of the sentence after it has been pronounced upon certain conditions.
3. *Deferred* - Postponing of the execution of the sentence of deferred finding for a period of time upon certain conditions. Does not operate as a suspension of sentence.

SHOPLIFTING: Taking something from a store without paying for it.

SMALL CLAIMS: A civil dispute in District or Justice Court where the amounts of money involved are less than \$5000. Persons usually are not represented by lawyers in small claims.

STATUTE LAW: Law passed by a law-making body such as the State Legislature.

STAY: The temporary suspension of the regular order or proceedings in a case, by direction or order of the court.

SUMMONS (OR SUBPOENA): An official order to appear in court at a specific time.

TESTIMONY: Information or evidence given by a witness under oath.

TORT: A private or civil wrong or injury; a wrong independent of contract.

TRIAL: Proceedings in open court after the pleadings are finished and the prosecution is otherwise ready, down to the rendition of the verdict.

TRIAL BY DECLARATION OR INFORMAL TRAFFIC HEARING: Persons who receive a traffic citation have another option to appear before a Judge in an informal

hearing called Trial by Declaration. At this hearing there are not any prosecutors, police, or witnesses present. The person simply tells the judge his/her side of the story, and the judge takes what action s/he determines is appropriate. If the defendant disagrees with the judge at the informal hearing, they may request and receive a formal trial. Traffic cases include city police moving and parking citations, sheriff, highway patrol, and University of Utah parking and moving citations.

TRIAL DE NOVO: A new trial or retrial held in an appellate court in which the whole case is heard as if the trial had not been heard in a lower court.

VERDICT: Formal decision or finding made by a jury.

VIOLATE: To go against or break.

VOIR DIRE: The questioning of possible jurors by the judge and the lawyers to decide whether they are acceptable to decide the case.

WAIVE: To give up a right or claim voluntarily.

WARRANT OF ARREST: A written order issued and signed by a judge or magistrate which allows the police to make a search or arrest a person.

WITNESS: One who testifies under oath to what s/he has seen, heard, or otherwise observed.

WRIT: An order issued by a court or judge, in the name of the state, for the purpose of compelling the defendant to do something mentioned in the order.